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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
NORTHERN DIVISION**

AL BAKER,

Plaintiff,

V.

LEO DROZDOFF, Acting Director of
the Nevada Department of Conservation
and Natural Resources, et al.,

Defendants.

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No. 3:10-cv-00426-ECR-WGC

THIRD STIPULATED MOTION FOR PRELIMINARY INJUNCTION AND TO STAY PROCEEDINGS

Plaintiff Al Baker and Defendants Leo Drozdoff, Acting Director of the Nevada

Department of Conservation and Natural Resources; David K. Morrow, Administrator of the Nevada State Parks; Steve Weaver, Deputy Director of the Nevada State Parks; Eric Johnson,

Nevada State Parks Fallon Region Regional Manager; and Andrew Bass, Park Supervisor I, Wild Horse State Recreation Area, by and through their undersigned attorneys, respectfully move the Court for an extension of the preliminary injunction granted on March 29, 2011, pursuant to Federal Rule of Civil Procedure 65(a) to prohibit Defendants from enforcing Nevada Administrative Code § 407.105(1)(b)–(c) and to stay all deadlines in this case, pending the outcome of an administrative rulemaking to amend the regulations. The grounds for this Motion are as follows:

1. On August 26, 2010, Plaintiff filed an Amended Complaint seeking declaratory and injunctive relief for Defendants’ alleged deprivation of Plaintiff’s right to keep and bear arms guaranteed by the United States Constitution.

2. Plaintiff’s Amended Complaint alleges, *inter alia*, that Defendants’ maintenance and enforcement of Nevada Administrative Code § 407.105(1)(b)–(c) prohibits the possession and discharge of functional firearms for self-defense in Nevada State Parks in violation of Plaintiff’s right to keep and bear arms guaranteed by the Second and Fourteenth Amendments.

3. Defendants filed an Answer to Plaintiff’s Amended Complaint on September 10, 2010, denying these allegations.

4. On September 14, 2010, the parties stipulated to entry of a preliminary injunction and an order staying the proceedings in this case, to allow Defendants time to amend Nevada Administrative Code § 407.105.

5. On September 20, 2011, this Court entered an Order preliminarily enjoining Nevada Administrative Code § 407.105 until September 21, 2011, and staying the proceedings in this case until March 21, 2011.

6. On December 30, 2011, Defendants initiated the rulemaking process to revise the regulation.

7. On March 21, 2011, the parties stipulated to an extension of the preliminary injunction and an order staying the proceedings in this case in order to allow more time for the rulemaking process to continue.

8. On March 29, 2011, this Court entered an Order preliminarily enjoining Nevada Administrative Code § 407.105 and staying the proceedings in this case until September 30, 2011.

9. As part of the rulemaking process, Defendants have scheduled a public workshop on October 12, 2011.

10. This rulemaking may result in changes to Nevada Administrative Code § 407.105 that could cure Defendants' alleged deprivation of the right to keep and bear arms guaranteed by the United States Constitution.

11. In order to conserve judicial resources, the parties desire and hereby stipulate to the continuation of a preliminary injunction prohibiting enforcement of Nevada Administrative Code § 407.105(1)(b)–(c) by Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them for the anticipated duration of the rulemaking process.

12. The parties agree and stipulate that neither party should be required to post security as a condition of this preliminary injunction.

13. Furthermore, the parties desire and hereby stipulate to stay all deadlines in this case for the anticipated duration of the rulemaking process.

Wherefore, the parties jointly move the Court for entry of a Preliminary Injunction and an Order staying these proceedings in the form submitted.

Respectfully submitted this 29th day of September 2011.

/s/ James M. Manley
James M. Manley
Mountain States Legal Foundation

Robert M. Salyer
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Attorneys for Plaintiff

/s/ Kristen R. Geddes
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Deputy Attorney General

Catherine Cortez Masto
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of September 2011, I filed the foregoing document electronically through the CM/ECF system, which caused the following to be served by electronic means:

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